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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,738	08/19/2003	Thierry Rogelet	107134.01	3819
25944	7590	06/30/2004		
OLIFF & BERRIDGE, PLC				EXAMINER
P.O. BOX 19928				BARROW, JAMES G
ALEXANDRIA, VA 22320				ART UNIT
				PAPER NUMBER
				3749

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/642,738	ROGELET, THIERRY	
	Examiner	Art Unit	
	James G. Barrow	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 March 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) 1 and 9 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: A “subordinate longitudinal movement towards the gas release lever” (C: 1, L: 5-6). A “substantially straight portion” (C: 2, L: 2 and C: 3, L: 2). A “substantially straight portion” (C: 3, L: 2).

Claim Objections

Claim 1 is objected to because of the following informalities: The phrase “to the axis” should be - to a longitudinal axis -. Appropriate correction is required.

Due to newly discovered prior art the allowance of claims 1-7 and 9 has been withdrawn and the rejection on the merits follows.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Chan (6,142,767). Chan discloses a gas lighter having a gas valve 20 (having a spring not shown), piezoelectric igniting system 6 carried in a bore (see figure 2) in operating member 4 (having a spring not shown) engaging a fixed stop (shown figure 2), a safety member 2 having a spring 3 carried in a bore (see figure 2) in the operating member 4,

the bores in the operating member 4 are parallel, and the phrase "gas lighting rod" in the preamble is given no patentable weight.

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Nitta (4,904,189). Nitta discloses a gas lighter having a gas valve (see figure 6), a piezoelectric ignition system 8, a spring-loaded (not shown) operating member 4 that carries the piezoelectric ignition system 8 that engages a fixed stop (see figure 6), a spring-loaded 4c safety member 11, and the phrase "gas lighting rod" in the preamble is given no patentable weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu (5,865,614) in view of Fremund (5,076,783). Hsu discloses a gas lighting rod having a gas relief valve 22, a piezoelectric igniting system 3, both operated by a spring loaded (not shown) operator 4 that moves in a primarily transverse direction to the longitudinal axis of the gas lighting rod, and a safety member 6. However Hsu does not disclose a spring-loaded safety member. Fremund teaches the use of a spring loaded 90 safety member 104 in the same field of invention of lighters for the purpose of rendering "them safe or child proof" (C: 1, L: 6-7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a spring to bias the safety member, as taught by Fremund, on the safety member of Hsu in order to allow the safety member of Hsu to reset when the operating member 4 is let in the off position. Regarding claims 2 and 3, it is the Examiner's position that operating member 4 is accessible through a substantially straight portion of the casing 4 and it is at substantially at right angle to the movement of the operating member.

Allowable Subject Matter

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lin (6,093,016), Lin (5,460,520), and Buzzi (4,516,933) disclose gas lighting rods having operating members that traverse the axis of the lighting rod, but do not have spring loaded safety members. Ferrara, Jr. (Des. 390,749; 386,045; and 382,442) and Hsu (Des. 380,936) discloses designs for gas lighting rods having operating members that traverse the axis of the lighting rod. Shike et al (5,326,256 and 5,322,433) and Nitta (4,778,379) disclose gas lighting rods where the piezoelectric member is mounted in the operating member, but do not disclose a spring-loaded safety member. Kenjiro et al (5,240,408) and Nitta (4,786,248) disclose lighters having piezoelectric members mounted in their operating members, but do not disclose spring-loaded safety members.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James G. Barrow whose telephone number is (703) 305-5427. The examiner can normally be reached on M-F, 9:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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